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December 14, 2023

VIA ECF

Honorable Susan D. Wigenton
United States District Judge
Martin Luther King, Jr. Federal Building
& United States Courthouse
50 Walnut Street
Newark, New Jersey 07102

Re: *United States v. Daibes*
Criminal No. 18-655-SDW

Dear Judge Wigenton:

As Your Honor is aware, a continuance order is in effect in this matter through tomorrow, December 15, 2023. ECF Nos. 115, 123. As discussed during the last status conference in the above-captioned matter, I write to respectfully request that the trial date for this matter be postponed until after the trial in the matter of *United States v. Menendez, et al.*, Case No. 1:23-cr-490 (SHS) (S.D.N.Y), currently scheduled to begin on May 6, 2024, before the Honorable Sidney H. Stein, United States District Judge for the Southern District of New York. Specifically, I propose that (a) the setting of a trial date be postponed until the conclusion of the proceedings in the Southern District of New York, after which this Court would schedule a status conference to set new dates for any further pretrial motions and other submissions, a final pretrial conference and a trial, if any; and (b) that the undersigned counsel be required to promptly advise this Court of any changes to the trial date of the matter in the Southern District of New York so that this matter may, if necessary and appropriate, be revisited. To be clear, I am not proposing that this matter be stayed in its entirety; certainly, if issues arise, or opportunities to make progress in resolving it for either defendant present themselves, this is not meant to prevent the Court and counsel from acting accordingly.

The reasons for this request are three. First, given the allegations in the *Menendez* case, the outcome of that matter will very likely have a definite and profound impact on this case, potentially both making its resolution without the necessity of a trial far more likely, and determining what the resolution is. Second, it will be extremely difficult, both for counsel and for defendant Daibes himself, to prepare for two trials at once. Third, my schedule, which includes several other matters (beyond the *Menendez* case) as to which trial dates have been set, will make the setting of a trial date in this matter prior to the conclusion of the proceedings in the Southern District of New York very challenging. Those matters include *United States v.*

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Khaimov, et al., Case No. 03:18-cr-00462-MAS, with a peremptory trial date of March 4, 2024 before the Honorable Michael A. Shipp, United States District Judge; *United States v. Johnston, et al.*, Case No. 1:20-cr-0800-RBK, currently scheduled for trial on April 8, 2024 before the Honorable Robert B. Kugler, United States District Judge; and *United States v. Coburn, et al.*, Case No. 2:19-00120-MEF currently scheduled for trial on May 6, 2024 before the Honorable Michael E. Farbiarz, United States District Judge. Again, though, I will certainly keep Your Honor apprised of developments in any of those cases.

I have spoken to John C. Whipple, Esq., counsel for co-defendant Michael McManus, who joins this request. If it is satisfactory to Your Honor, please sign the So Ordered provision set forth below, and enter it at Your Honor's convenience. Of course, if the Court has any questions or concerns, please do not hesitate to contact me. Thank you for Your Honor's consideration of this request.

Respectfully submitted,

s/Lawrence S. Lustberg

Lawrence S. Lustberg

SO ORDERED:

This ____ day of December, 2023

Honorable Susan D. Wigenton
United States District Judge

cc: All counsel of record (*via ECF*)